

UNITED STATES OF AMERICA  
POSTAL RATE COMMISSION  
WASHINGTON, D.C. 20268-0001

Complaint on Post E.C.S.

Docket No. C99-1

PRESIDING OFFICER'S RULING CERTIFYING  
QUESTION OF APPROPRIATE PROTECTIVE CONDITIONS  
FOR CONSIDERATION BY THE COMMISSION

(September 8, 1999)

Presiding Officer's Ruling No. C99-1/2, in addition to establishing initial procedural dates and Special Rules of Practice for this docket, addressed Complainant's motion for the adoption of protective conditions that would apply to the release of sensitive information by the Postal Service. In light of the Postal Service's declared opposition to Complainant's proposed protective conditions, the ruling granted the Service and other interested parties an opportunity to submit alternative provisions prior to disposition of that motion. Timely responses or comments were filed by the Postal Service, the Office of the Consumer Advocate, and UPS.

In Presiding Officer's Ruling No. C99-1/4, I cited the Postal Service's contention that the protective conditions proposed by Complainant are inadequate, and its argument that far more stringent provisions would be required to afford adequate protection. I also noted that each of the responding parties had suggested it was premature to establish a single set of protective conditions with the expectation that they would be appropriate in every instance. Accordingly, I deferred action on Complainant's motion "until such time as it is found necessary to make a submission of information subject to protective conditions." Presiding Officer's Ruling No. C99-1/4 at 3.

On August 30, the Postal Service submitted a descriptive list of documents responsive to certain UPS interrogatories, together with the associated privileges asserted for them, as directed by Presiding Officer's Ruling No. C99-1/9 and additional instructions provided during the prehearing conference held on August 10.<sup>1</sup> This list invokes many claims of commercial sensitivity and other privileges, and includes an assertion that at least one of the listed documents is "highly sensitive [in] nature."<sup>2</sup>

In light of its earlier arguments, it is anticipated that the Postal Service would oppose a ruling directing production of a number of the listed documents under protective conditions other than those it advances as necessary to provide adequate protection of its information. Ruling on this matter presents important legal and policy questions on which the parties obviously disagree significantly; furthermore, an authoritative ruling on the question is needed to advance to the presentation of evidence in this proceeding. Accordingly, I shall certify the issue of what protective conditions are appropriate for adoption in this case for consideration by the full Commission.

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<sup>1</sup> United States Postal Service Provision of Descriptive List of Responsive Documents and Associated Privileges Pursuant to Presiding Officer's Ruling No. C99-1/9, August 30, 1999. This filing lists documents responsive to most of the UPS interrogatories at issue individually, but provides a categorical description of documents responsive to Interrogatory UPS/USPS-5(d), as allowed in Presiding Officer's Ruling No. C99-1/12.

<sup>2</sup> Id. at 10, n. 5.

RULING

1. The question of conditions necessary and appropriate for protection of sensitive information to be provided by the Postal Service at the direction of the Presiding Officer or of the Commission in this proceeding is certified to the Commission.

Dana B. Covington, Sr.  
Presiding Officer